Charles Sprinkler
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In Pro Per

Combined Superior and Municipal Court of California
800 S. Victoria, Ventura CA 93003

People
v
Charles Sprinkler

Case # 2002: 013, 441
Document **#5613** preliminary version #1.1
Notice of Demurrer.
Memorandum of Authorities.
Notice of concurrent motions:
Motion #5614 to continue Arraignment until I receive police report #2-36250.
Motion #5615 to continue Arraignment I receive the confidential papers in my court file.
Proof of service.
Date: Thursday January 9th, 2003
Place: Court 10
Time: 1:30 pm

Notice of Demurrer

To the district attorney: Please take note: At the venue shown in the caption of at such venue as the court may order, Defendant will demur to the accusation. Signed _____ pro se. 3 Nov 2002.

Sign on side of Grampa's truck: **"Not for Hire"**

"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment." -***Robertson vs. Department of Public Works***, 180 Wash 133,147

"Personal liberty largely consists of the Right of locomotion -- to go where and when one pleases -- only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the Citizen to travel upon the public highways and to transport his property thereon, by horsedrawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's Rights, he will be protected, not only in his person, but in his safe conduct." [emphasis added] ***American Jurisprudence 1st. Constitutional Law***, Sect.329, p 1135.

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Demurrer

Defendant demurs pursuant to the common law. Penal code section 1004 is a bit stingy. The purview of demurrer is broader than this penal code admits. See Blackstone's Commentaries on the Law of England.

> "1004. The defendant may demur to the accusatory pleading at any time prior to the entry of a plea, when it appears upon the face thereof . . .4. That the facts stated do not constitute a public offense"

VC 12500 is void. It violates the constitution.

Signed _____, Defendant pro se

Memorandum of Authorities

History of the driver license

In the Beginning we built roads. We shared common tenancy.

The townships generally required citizens to contribute approximately 10 days in the spring to fix the roads. Those citizens with wagons hauled macadam rock and other materials.

Evolution of Driver License - as related by Charles Sprinkle of Ojai, California

Charles was born in 1939 in West Virginia. He says that volunteers patrolled the roads carrying gasoline for people with car problems. Eventually every driver paid 25 cents toward the gasoline fund. The receipt for this 25 cents was your license to use the road and partake of the services should you become stranded.

Declaration of Douglas Palaschak re: The law of licensure of farm trucks.

I, Douglas Palaschak, declare the following under penalty of perjury: I remember. I was raised on a grand corn and soybean farm in Illinois. When I was age 9, each of my Grandfathers owned a grain truck. Both trucks said the same thing on the side: "Not for hire". I pondered this strange message for many years. Why would you not hire your truck out? Why make an issue of it before anybody even asks? The answer seemed to be that if you hired out your truck then you became subject to a higher tax on the truck. In fact to this day there is a rule, perhaps unwritten, that a farmer may drive his truck to the nearest grain elevator just as he may drive his tractor and wagon, to wit: without regard for licenses on the driver or the truck - because none are needed for the tractor and wagon hauling corn in from the field.

I drove a grain truck again on the farm in the harvests of 1996, 1997, and 1998. I drove it without a driver license for a truck, and, as I recall, the trucks, or at least one of them was not currently registered. That is how the issue arose.

_____

Douglas Palaschak

Defendant did not suddenly lose his right to drive.

By stealthy encroachment the state takes away our liberty and sells is back to us as a license. The stealth encroachment process of the corporation/ state against the human depends on time for its success. The human lives perhaps 85 years. The corporation/ state has eternal life. As each succeeding generation dies off, the next generation fails to remember the lessons and history of the previous generation. The

corporation state counts on that. Defendant remembers the way it was.

We use the road as common tenants - not as renters from the state

Stealthy encroachment at work: The state counts on this generation to forget that we use the roads as tenants in common - not as licensees! Teodor Marian and his Mentor Richard McDonald have researched this vein. By looking back at old disputes regarding roads, rivers, and other ways of passage, we see clearly that the view was that public property is nothing more than property held in common tenancy for use by the public.

Comparison of Tenant in Common to Licensee

The licensee must request the license from the licensor, he cannot demand it from him. The licensor cannot require the licensee to take his license under the licensee has encroached upon the thing or act that the licensor has competent authority over. You cannot demand a liquor license. By comparison you can use the road without even demanding anything. It is there to be used by all.

The Nature of a License: permission to do something that one otherwise may not do.

You may not hunt pheasant in my corn field without my permission. However, we each have the right, barring abuse, to use the road. We are tenants on common on the road.

> To license means to confer on a person the right to do something which otherwise he would not have the right to do. ***City of Louisville v Sebree*** (19__) 214 SW 2nd 248, 308 Ky 420

The state cannot sell a right to drive; it was already ours.

> The object of a license is to confer a right or power, which does not exist without it. ***Payne v. Massey*** (19__) 196 SW 2nd 493, 145 Tex 273.

The word "license" means permission, or authority; and a license to do any particular thing, is a permission or authority to do that thing; and if granted by a person having power to grant it, transfers to the grantee the right to do whatever it purports to authorize. ***Gibbons v. Ogden*** (Feb 1824) 22 US 1, 6 L Ed 23, 9 Wheat 1.

Supreme Court's Views on the right to Locomotion

A good place to start is ***Edwards v California*** (1941) 314 U.S. 160. The court held that a state may not condition interstate travel upon wealth[1]. I contend that the driver license scheme is merely a regressive tax

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[1] ***Edwards v California*** (1941)The facts of this case are simple and are not disputed. Appellant is a citizen of the United States and a resident of California. In December, 1939, he left his home in Marysville, California, for Spur, Texas, with the intention of bringing back to Marysville, his wife's brother, Frank Duncan, a citizen of the United States and a resident of Texas. [314 U.S. 160, 171] When he arrived in Texas, appellant learned that Duncan had last been employed by the Works Progress Administration. Appellant thus became aware of the fact that Duncan was an indigent person and he continued to be aware of it throughout the period involved in this case. The two men agreed that appellant should transport Duncan from Texas to Marysville in appellant's automobile. Accordingly, they left Spur on January 1, 1940, entered California by way of Arizona on January 3, and reached Marysville on January 5. When he left Texas, Duncan had about $20. It had all been spent by the time he reached Marysville. He lived with appellant for about ten days until he obtained financial assistance from the Farm Security

and therefore an impermissible barrier to interstate commerce. People are commerce. Interstate commerce includes, ironically, instate commerce, for purpose of this analysis.

The Department of Motor Vehicles has by stealthy encroachment overstepped its bounds

There is a case that says that all administrative law is unconstitutional. We need not be that drastic. Certainly there are some things that the Department of Motor Vehicles can do lawfully. They can assist in transferring title of a car. They can administer a driver test. Even if the state legislature cooperates and passes a "statute" for the motor vehicle code, that "statute" is really more like a "regulation" in that even the legislature has no power to impede commerce absent compelling state interest.

The Supreme Court said in ***U.S. v Mersky*** (1960) 361 U.S. 431: An administrative regulation, of course, is not a "statute." While in practical effect regulations may be called "little laws," 1. 7 they are at most but offspring of statutes." I cite this case only to point out that indeed there is a difference between regulations and statutes. Furthermore, not all laws are created equal. Furthermore, a statute that regulates without constitutional authority is a nullity even though it be published in the books, recognized by the police and lowers courts, and even though it be unchallenged for decades. Such is current state of driver license laws in these United States. We are in the age of government excess. Over half the working people work for some form of government. By manipulating the money, by imprisoning dissenters, by owning the bulk of the stock of public corporations, by deceptive bookkeeping, and by other oppression, fraud, and malice, the governments have lulled the populace into a belief in the presumed regularity of whatever the government says. Well, I am here to tell you it aint so!

Supreme Court's older Traditional View of Right to Travel[2]

"The right of the citizen to travel upon the public highways and to transport his property thereon, either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but a common law right which he has under the right to life, liberty, and the pursuit of happiness." ***Thompson v. Smith***, 154 SE 579.

"The use of the highway for the purpose of travel and transportation is not a mere privilege, but a common fundamental right of which the public and individuals cannot rightfully be deprived." ***Chicago Motor Coach***

Administration. During the ten day interval, he had no employment.

1. In Justice Court a complaint was filed against appellant under Section 2615 of the Welfare and Institutions Code of California, St.1937, p. 1406, which provides: 'Every person, firm or corporation, or officer or agent thereof that brings or assists in bringing into the State any indigent person who is not a resident of the State, knowing him to be an indigent person, is guilty of a misdemeanor.' On demurrer to the complaint, appellant urged that the Section violated several provisions of the Federal Constitution. The demurrer was overruled, the cause was tried, appellant was convicted and sentenced to six months imprisonment in the county jail, and sentence was suspended. On appeal to U.S. Supreme Court, Edwards won.

[2]Here is the Loyola Law School's page on "Right to Travel"
http://faculty.lls.edu/~manheimk/cl2/travelx.htm

v. Chicago, 169 NE 221.

"Complete freedom of the highways is so old and well established a blessing that we have forgotten the days of the Robber Barons and toll roads, and yet, under an act like this, arbitrarily administered, the highways may be completely monopolized, if, through lack of interest, the people submit, then they may look to see the most sacred of their liberties taken from them one by one, by more or less rapid encroachment." ***Robertson vs. Department of Public Works***, 180 Wash 133,147.

"Personal liberty largely consists of the Right of locomotion -- to go where and when one pleases -- only so far restrained as the Rights of others may make it necessary for the welfare of all other citizens. The Right of the Citizen to travel upon the public highways and to transport his property thereon, by horsedrawn carriage, wagon, or automobile, is not a mere privilege which may be permitted or prohibited at will, but the common Right which he has under his Right to life, liberty, and the pursuit of happiness. Under this Constitutional guarantee one may, therefore, under normal conditions, travel at his inclination along the public highways or in public places, and while conducting himself in an orderly and decent manner, neither interfering with nor disturbing another's Rights, he will be protected, not only in his person, but in his safe conduct." ***American Jurisprudence 1st Edition, Constitutional Law***, Sect.329, p.1135.

The leading cases regarding travel in general are:

Kent v. Dulles, 357 U.S. 116 (1958)

Aptheker v. Secretary of State, 378 U.S. 500 (1964)

Zemel v. Rusk, 381 U.S. 1 (1965)

United States v. Guest, 383 U.S. 745 (1966)

Shapiro v. Thompson, 394 U.S. 618 (1969)

Oregon v. Mitchell, 400 U.S. 112 (1970)

Graham v. Department of Pub. Welfare, 403 U.S. 365 (1971)

States may not compact with each other without permission of Congress.

Consider the compact by which all states seem to want you to have a driver license from one state only.

> **U.S. Constitution: Art. 1 Section 10, Clause 3: " No state shall, without Consent of Congress, . . . enter into any Agreement or Compact with another State. . ."**

Some cases that flesh out the difference between "rights" and "privileges"

The permission or license is a special right or privilege. Once a license exists only the licensee has he right to do the thing the licensor allows. The licensee is privileged over others who do not have a license. It thus is a privilege to have the right to do the thing that is licensed. In other words, the right or permission granted by the licensor is a privilege since he controls who can and who cannot exercise the right. If the licensor grants the licensee a right or benefit, it is called a privilege:

The word privilege is defined as a peculiar benefit, favor, or advantage, a right or immunity not

enjoyed by all, or it may be enjoyed only under special conditions. ***Knoll Golf Club v U.S.***, 179 F Supp 377 Since the right or permission to do a thing is called a license, and since the right is "peculiar" to the licensee alone, the license is called a privilege. Anything that requires a license is a privilege.

> A license for the sale of intoxicating liquor is a privilege. ***Chiordi v Jernigan*** 129 P 2nd 640, 642; 46 NM 396.

Even privileges must be administered even-handedly. Authority: Equal Protection Clause.

Also, grandfather clauses, and implied clauses, forbid the state to take away a vested right.

> Those have the right to do something cannot be licensed for what they already have right to do as such license would be meaningless. ***City of Chicago v Collins*** (19__) 51 NE 907, 910.

Also, those things which are considered as inalienable rights, which all Americans possess, cannot be licensed since those are not held to be a privilege.

The right to freedom of speech, freedom of the press, freedom of assembly, and freedom of religious worship are not privileges. ***Douglas v City of Jeannette*** 130 F 2nd 652, 655.

A license bypasses a legal barrier or makes an otherwise unlawful act lawful. The nature of a license allows the licensee to do something he could not otherwise legally do. Thus, a license gives the licensee the right to do something that would otherwise be illegal or unlawful for him to do.

A license is a mere permit to do something that without it would be unlawful. ***Littleton v Burgess***, 82 P 864, 866, 14 Wyo 173.

A license is a right granted by some competent authority to do an act which, without such license, would be illegal. ***Beard v City of Atlanta*** (__) 86 SE 2nd 672, 676; 91 Ga. App. 584.

A licensee is one privileged to enter or remain on land by virtue of the possessor's consent, whether given by invitation or permission. ***Wool v Larner***, 26 A 2nd 89, 92, 112 Vt. 431.

The licensor has the power to prohibit. Since the licensor is in the position to grant a right or permission it logically follows that he has the power to prohibit the act also. Likewise, having the power to prohibit something from being done, it follows as a corollary that power also exists to permit its use. ***Taylor v Smith***, 140 Va. 217, 235. Thus, where the power to license exists so does he power to prohibit.

The authority to license implies the power to prohibit, such being the meaning of the term. The City of Burllington v. Bumgardner, 42 Iowa 673, 674.

The power to license necessarily includes the power to inhibit unlicensed persons from doing the acts authorized by license. The power to refuse license necessarily gives the power to limit the issuance of licenses. Ex parte M.T. Dickey, 76 W. Va.576, 585; 85 SE 781.

A license means leave to do a thing which the licensor could prevent. Blatz Brewing Co. v. Collins, 160 P.2d 37, 39; 69 Cal. A. 2d 639.

Since the Motor Vehicles Departments, i.e., licensors, the Motor Vehicles Department(s) can issue or refuse to issue a license and thereby permit or prohibit anyone from exercising the right or privilege they

has authority over.

A license carries limitations, restrictions and requirements. Whenever a license is issued the licensee is under certain limitations and requirements established by the Motor Vehicles Department (licensor), which may be implied or expressed when the license was issued. These limitations and requirements are often in the form of rules and regulations and may be referred to as the "terms" of the license, which the licensee is subject to. The following decision reveals these characteristics:

"Licensee," as used in Pub. St. c. 100, in reference to certain licensees, and providing that no such licensee shall place or maintain any screen, curtain, or other obstruction on the licensed premises, refers to every licensee, and not merely such as have been required by the licensing board to remove a screen, curtain, or other obstruction. Commonwealth v. Rourke, 6 N.E. 383, 384; 141Mass. 321.

Those that are licensed under the statute cited above are restricted in their ability to erect curtains, screens, or other obstructions on their premises due to the terms of the license. It matters not where these terms were directly stated to the licensee or stated in the rules and regulations that cover such licensed businesses, the licensee still becomes subject to the terms of the license. There can be no argument that such terms are unreasonable as the licensor is in authority to make any such rules.

If a city chooses to grant permission [a license] to individuals to conduct a taxicab business in its streets, it can prescribe such terms and conditions as it may see fit, and individuals desiring to avail themselves of such terms and conditions, whether they are reasonable or unreasonable. Eason v. Dowdy, 219 Ga. 555.

Also, any argument that such terms are in violation of one's rights has no legal standing. When person(s) takes a license, he in effect must waive any rights that would otherwise conflict with the terms of the license. The licensor has the authority over the thing being licensed therefore his term must prevail over the rights of the licensee and out of respect of the licensor's right to control the thing or act. Thus, the rights of the licensee are limited by the terms of the license.

The rights of a licensee can rise no higher than the terms of the statute or ordinance by which he became the holder. Steves et al. v Robie, 139 Me. 359, 363.

The licensee must submit to the rules, limitations, and requirements the licensor sets out as the terms of the license.

A license is revocable by the licensor. When a license exists, it is within the power of the Motor Vehicles Department(s) (licensor) to revoke the license at any time this entity wishes.

Permits to carry on a liquor business issued under Liquor Control Act are mere licenses revocable as provided in such act. State v. Hawlew, 44 N.E. 2d 815, 820.

A license, pure and simple, is a mere personal privilege, and it is revocable at law, at the pleasure of the licensor, even when money has been paid for it. River Development Corp. v. Liberty Corp., 133 A. 2d 373, 385; 45 N.J. Super. 445.

A license is one to whom an owner of realty has granted a mere right of occupancy, and such license

is revocable at the option of the licensor. Caldwell v. Mitchell, 158 NYS 2d 868, 870.

The licensee cannot possibly revoke the license he is the holder of since he did not give himself the permission or license in the first place. Only the licensor can revoke a license.

The terms and rules of a license are amendable. Restrictions, limitations, and requirements can be added, deleting or modified at a future date and become new terms of the license. Here again only the licensor is able to amend the terms and conditions of the license. Thus, when the licensor makes a requirement after the license is issued, the licensee is subject to that requirement just as though it were an original condition of the license.

The foregoing characteristics of a license reveal the legal principles that potentially exist whenever licensing takes place.

A license is often found under the law of contracts and apparently shares some attributes of contract. However, in its truest sense, a license is not a contract and it has generally been so held.

A license is merely a privilege to do business and is not a contract between authority granting it and grantee nor is it a property right, nor does it create a vested right. Mayo v. Market Fruit Co. of Sanford, Fla.,40 So. 2d 555, 559.

A license is merely a permit or privilege to do what otherwise would be unlawful, and is not a contract between the authority, federal, state, or municipal granting it and the person to whom it is granted, and is not property or a property right. American States Water Services Co. of California v Johnson, 88 P.2d 770, 774; 31 Cal. App. 2d 606.

A license requires that one of the parties have competent authority over the thing or the act involved in the agreement whereas a contract does not. A license can be terminated by one of the parties at any time but a contract cannot. These authorities also show that a license is not property right because it is not in itself property. Neither is a license a vested right but only a privilege.

The Undersigned now brings to light in what manner can a license be used when controlling the acts of individuals that are regarded as “natural rights,” or in exercising [3] “constitutional rights.”

Liberties may not be licensed - although by stealthy encroachment that was the trend

The terms liberty and license are often viewed as two different things. Liberty being a sacred right everyone has, and a license being a grant that is often assigned and documented by way of a piece of paper. This is true where we use these words as if they are commonly understood.

Liberty is viewed as an inherent and inalienable right, and one all free men naturally possess. This is to be distinguished from the type of right given by an individual or government, which is commonly called a license. Thus, the latter is not, and cannot be, considered as a substitute for the former.

However, the technical and legal definition of these two words is actually synonymous.

A license gives one the right or “liberty” to do a certain thing.

Definition: “License”: Leave; permission; authority or liberty given to do or forbear any act. A license may be verbal or written; when written, the paper containing the authority is called a license. A man is not

permitted to retail spirituous liquors till he has obtained a license. Webster's American Dictionary, 1828.

It can be seen by this definition that a license is a liberty. Once one has a "license" one has "liberty" or is at liberty to do something.

The Constitutional Right to Travel. Locomotion. Association.

U.S. v Guest

Edwards v California.

The basis of the RIGHT TO TRAVEL primarily centers around the peoples inalienable and natural right of "liberty." At times, both "The State" and the U.S. Constitution recognize liberty.

General Ancient Libertarian Premise

Personal liberty, which is guaranteed to every citizen under our Constitution and laws, consists of the right of locomotion - to go where one pleases, and when, and to do what may lead to one's business or pleasure, only so far restrained as the rights of others may make necessary for the welfare of all other citizens.

One may travel along the public highways or in public places. *** These are rights which existed long before our [their Federal] Constitution, and we have taken just pride in their maintenance, making them a part of the fundamental law of the land. Pinkerton v. Verberg, 78 Mich. 573, 584, 44 N.W. 579 (1889).

There now exists policies/laws that attempt to prohibit travel in the several states that attempt to prohibit travel by way of "driver's licenses" and taxes, along with other quasi-State laws.

The two rights of liberty and property which are taken for granted, are extremely important rights and when claimed and asserted should not be taken lightly by the courts.

This court has consistently held to the view that liberty of the person and the right to the control of one's own property are very sacred rights which should not be taken away or withheld except for very urgent reasons. In re Guardianship of Collition, 164 N.W. 2d 480, 483; 41Wis. 2d 487 (1969).

Since the Governors Convention on March 6, 1933 and the bankruptcy of this Nation by the infamous Franklin D. Roosevelt on March 9, 1933, the States have come increasingly more and more aggressive in controlling the people and their property, and these States will now not tolerate anyone traveling in their domain without their permission, i.e. license. Just a short time after this bankruptcy, on April 21, 1933, the license law was passed, but not enforced....?

When government passes an unlawful act, such as the licensing of a right, people need to know they have no obligation to obey it, for it is void from the time it was enacted:

An unconstitutional legislative enactment, through law in form, is in fact not law at all. It confers no rights; it imposes no duties; it affords no protection; it is in legal contemplation as inoperative as though it had never been passed. Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); Norton v. Shelby County, 118 U.S. 425, 442.

Where the people remain ignorant of the law, they will be in bondage. Quoting Thomas Jefferson: "If a people expects to be ignorant and free, they expect what never was and never will be."

The following maxim was often cited in early America to guard against this problem:

That no free government, or the blessings of liberty, can be preserved to any people but by a firm

adherence to justice and virtue, and by a frequent recurrence to fundamental principles. See, Bonnett v. Vallier, 116 N.W. 885, 136 Wis. 193 (1908); Norton v. Shelby County, 118 U.S. 425, 442.

Defendant claims all God given Natural Rights and asserts these inherited rights that are unalienable reinforced in "The Declaration of Independence" (1776), where the defendant does not descend from, here, now, and in the future, knowingly or unknowingly.

Status, and Alliance of Administrators of this Legislative Tribunal/Court:

The acting members/officers doing business in this instant matter have taken an "Oath of Office," an alliance, The Constitution for the United States of America, Preamble (1787). Thus, it is these instruments (along with social and moral obligations) that are first and foremost duty to uphold. Therefore the Defendant will hold these representatives/officers/employees/trustees to their Oaths and/or alliances].

Argument

One of the rights involved in this matter is liberty, the liberty belonging to Defendant, which are fundamental and inalienable rights. They cannot be destroyed or diminished by legislative acts, or failure to act.

Those acting in government cannot override constitutional law, i.e. The Bill of Rights, at defiance by lightly passing over the peoples rights to liberty which is so deeply imbedded in God given Rights and your constitutions.

The right of liberty encapsulates the right of locomotion or travel is basic and obvious. The establishment and understanding of this liberty, as it applies to the defendant, is of paramount importance in making a decision in this matter. The "Liberty" claimed here includes the Aright to travel." This "Right to Travel," however, is not created by the Constitution but rather by the Union, which your alliance to the Constitution protects.

Right to Use Roads and Highways.

The first issue that must be established is what is the nature of a public road or highway, and what are the rights of the defendant thereon. All of your authorities agree that the use of roadways for ordinary travel is a basic and fundamental right:

A highway is a way over which the public have a free right of passage. Yale University v. City of New Haven, 104 Conn. 610; 134 Atl. 268, 271.

The essential features of a highway is that it is a way over which the public at large has he right to pass. State v. Pierson, 2 Conn. Cir. 660; 204 A.2d 838.

This right pf the people is in the street and highways of the state, whether inside or outside the municipalities thereof, is a paramount right. Light & Coke v. City of Chicago, N.E.2d 777, 781; 413 Ill. 457 (1952).

It is well settled that the public are entitled to a free passage along the highway. Michelson v. Dwyer, 63 N.W.2d 513, 517; 158 Neb. 427 (1954).

Our society is built in part upon free passage of men and goods, and the public streets and highways may rightfully be used for travel by everyone. Hanson v. Hall, 202 Minn. 381, 383.

Public ways, as applied to ways by land, are usually termed “highways” or “public roads,” are such ways as every citizen has a right to use. Kripp v. Curtis, 11 P. 879; 71 Cal. 62

A highway includes all public ways which the public generally has a right to use for passage and traffic, and includes streets in cities, sidewalks, turnpikes and bridges. Central Ill. Coal Mining Co. v. Illinois Power Co., 249 Ill. App.199.

Our courts has stressed he basic right of the transient public and abutting property owners to the free passage of vehicles on public highways and the paramount function of travel as overriding all other subordinate uses of our streets. State v. Perry, 269 Minn. 204, 206

A highway is a public road, which every citizen of the state has a right to use for the purpose of travel. Shelby County Com’rs v. Castetter, 33 N.E. 986, 987, 7 Ind. App. 309; Spindler v. Toomey, 111 N.E/2d 715, 716 (Ind.-1963).

The public have a right of free and unobstructed transit over streets, sidewalks and alleys, and this is the primary appropriate use to which they are generally dedicated. Pugh v. City, 176 Iowa 593, 599, 156 N.W. 892, 894.

It is well settled law that every member of the public has a right to use the public roads in a reasonable manner for the promotion of his health and happiness. Sumner v. County v. Interurban Transp. Co., 141 Tenn. 493 500.

A highway is a road or way upon which all persons have a right to travel at pleasure. It is the right of all persons to travel upon a road. Gulf & S.I.R. Co. v Adkinson, 77 So. 954, 955; 117 Miss. 118.

HIGHWAY.-A free and public road, way, or street; one which every person has the right to use. Black’s Law Dictionary, 2d Ed. (1910), p. 571

The right to travel over a street or highway is a primary absolute right of everyone. Foster’s Inc. v. Boise City, 118 P.2d 721, 728

A right is a passage, road or street which every citizen has a right to use. Ohio, Indiana, & W. Ry. Co. v. People, 39 Ill. App. 473.

Highways are public roads, which every citizen has a right to use. Wild v. Deig, 43 Ind. 455, 458; 13 Am. Rep. 399.

The courts of this land have repeatedly and consistently concurred on the fact that the people have a right to travel on the public roads and highways of this country. But the nature of this right must be determined. What type of right is it questioned here? It is only a statutory right or an inherent right? The cases cited indicate that it is a fundamental, inalienable, inherent and constitutional right. Other authorities verify this to be true:

It is settled that the streets of a city belong to the people of a state and the use thereof is an inalienable right of every citizen of the state. Whyte v. City of Sacramento, 65 Cal. App. 534, 547, 224 Pac. 1008, 1013 (1924); ***Escobedo v. State Dept. of Motor Vehicles*** (1950), 222 Pac. 2d 1, 5, 35 Cal.2d 870 (1950).

The right of a citizen to travel upon the public highways and to transport his property thereon in the

ordinary course of life and business is a common right which he has under his right to enjoy life and liberty, to acquire and possess property, and to pursue happiness and safety. Thompson v. Smith, 154 S.E. 579, 583 (Va.-1930).

This right of the people to the use of the public streets of a city is so well established and so universally recognized in this country, that it has become a part of the alphabet of fundamental rights of the citizen. Swift v. City of Topeka, 23 Pac. 1075,1076, 43 Kansas 671, 674.

The right of a citizen to use the highways, include the streets of the city or town, for travel and to transport his goods, is an inherent right which cannot be taken from him. Florida Motor Lines v. Ward, 137 So. 163, 167. Also: State v. Quigg, 114 So. 859, 862 (Fla.-1927); Davis v. City of Houston, 264 S.W. 625, 629 (Tex. Civ. App., 1924).

The right to travel, to go from place to place as the means of transportation permit, is a natural right subject to the rights of others and to reasonable regulation under law. Shactman v Dulles, 225 F.2d 938, 941 (1955)

The right of the citizen to travel upon the public highways and to transport his property thereon either by carriage or by automobile, is not a mere privilege which a city may prohibit or permit at will, but, a common right.@ See Thompson v Smith, 154 SE 579.

“All citizens of the United States of America have a right to pass and re-pass through every part of it without interruption, as freely as in their own state.” See Smith v. Turner, 48 U.S. 283, 12 L Ed. 702.

Every citizen has an inalienable right to make use of the public highways of the state; every citizen has full freedom to travel from place to place in the enjoyment of life and liberty. People v Nothaus, 363 P.2d 180, 182 (Colo.-1961).

Definition of “Passenger: “One who is traveling, as in a public coach, or in a ship, or on foot. This is the usual, through corrupt orthography.” See American Dictionary Of The English Language By Noah Webster, 1828.

It is thus well established that the right to travel by an American/ citizen on the public roads is a fundamental and constitutional right and, in fact, inalienable and natural right, one inherent in an American/ citizen and secured by the Organic Law of the Land.

The Common Law Right to Travel

The concept that traveling upon the roads is a basis fundamental right of every citizen, i.e., American, in the land is not a new concept in law. The right of every person to freely travel on public ways is well grounded in the ancient common law:

A highway according to the common law, is a place in which all the people have a right to pass. A common street and public highway are the same, and any way which is common to all the people may be called a highway. ***Skinner v. Town of Weathersfield***, 63 A. 142, 143; 78 Vt. 410.

At common law every member of the public has a right to use, in a reasonable manner and with due care, public roads, inclusive of public bridges. Shell Oil Co. v Jackson County , 193 S.W. 2d 268, 271 (Tex. Civ. App.-1946).

"In Oregon v. Mitchell, 400 U.S. 112, 27 L.Ed.2d 272, 92 S.Ct. 260, Brennan, joined by White and Marshall stated that for more than a century, the Supreme Court has recognized the constitutional right of all citizens to unhindered interstate travel and that both the existence of this right and its fundamental importance in America has been long been established beyond question." Also see Dunn v. Blumstein, 405 U.S. 330, 31 Lawyer's Edition 2nd 272, 92 S.Ct. 995, 56 Columbia L. Rev. 47.

"The rule is firmly established that the right of a citizen of one state to pass into any state of the Union . . . without molestation [restriction] is secured and protected by the United States Constitution." See 16A Am Jur 2d 607 Page 550-6, Freedom to travel.

It has been held directly in a number of cases that at common law a driver of a vehicle has the right to drive upon any part of the highway. Boyer v North End Drayage Co., 67 S.W.2d 769, 770 (Mo. App.-1934).

The common law rule was that a public highway was a "way common and free to all the king's subjects to pass and repass at liberty," and this court recognized that the "right to travel a highway belongs to everybody in the state,. . .that a highway belongs to the public, and is free and common as a way to every citizen on the land." House-Wives League v. City of Indianapolis, 204 Ind. 685, 688-89.

In quoting from some old English law books on the common law, the Tennessee Chancery Appeals Court stated the following:

Under the general law a public street is a public highway, and, if a highway, it is a "road which every citizen has a right to use." The right of the citizen to pass and repass on it is limited to no particular part of it for, as said in the books, "the public are entitled not only to a free passage along the highway, but to a free passage along any portion of it not in the actual use of some other traveler." 1 Hawk. P.C. 22; Ang. & D. Highways, ' 226. *** Under the common law a public highway was "a way common and free to all the king's subjects to pass and repass at liberty." State v. Stroud 52 S.W. 697, 698 (Tenn.-1899); Also see, 3 Kent, Comm. 432

The complete freedom and common right to travel on the highways is so old and well established that it has never been questioned, until this century. The general recognition of this right is due to its fundamental importance in our civilized society. It thus is a fundamental right that was secured by both Federal and State constitutions.

There can be no denial of the general proposition hat every citizen of the United States, and every citizen of each state of the Union, as an attribute of personal liberty, has the right ordinarily, of free transit from, or through the territory of any State. This freedom of egress or ingress is guaranteed to all by the clearest implications of the Federal, as well as of the State constitution. It has been said that even in England, whence our system of jurisprudence was derived, the right to personal liberty did not depend on any express statute, but "it was the birthright of every freeman."-Cooley's Const. Lim. 342.

This right was said by Sir William Blackstone to consist in "the power of locomotion, of changing situation, or of moving one's person to whatever place one's inclination may direct, without imprisonment or restraint, unless by due process of law." 1 Bl. Comm. 134 Joseph v. Randolph, 71 Ala. 499, 504-505.

The use of roads for travel is a very ancient practice. The right to travel upon them has been

recognized since the early Roman Empire. This right to freely travel as an attribute of personal liberty was so basic and fundamental in early America that it never became the subject matter of colonial legislation. Not even under the tyranny of King George III was the right to travel suppressed. Liberty was recognized and secured by all of the original state constitutions. When Connecticut was a Colony, its citizens possessed this liberty and right to travel. The Constitution of Connecticut when adopted secured this inalienable right to liberty, locomotion, or travel on the public ways.

That the lower court/tribunal and Appellee should then ignore and trample over the meaning and original intent of the State Constitution and recognize only current statutes set by quasi legislation, is not only being legally nearsighted but is a gross violation of their oath of office. As a result the trial court/tribunal gravely erred in its decision. The liberty to travel and to move from place to place, which existed under the common law, and which existed in colonial America, also exists under the State Constitutions. The "liberty" in the Constitution secures the same rights it included at common law and meaning the same thing-a right to travel"

Freedom of locomotion, although subject to proper restrictions, is included in the >liberty' guaranteed by State Constitution. Commonwealth v. Doe, 167 A. 241, 242: 109 Pa. Super. 187.

Automobiles and the Right to Travel.

This inalienable and constitutional right to travel on public roads includes the use of an automobile as a means of conveyance. Since the invention of the automobile the courts of this land have universally recognized the automobile not only as a lawful means of conveyance, but one that has equal rights with other modes of travel using public ways:

The law does not denounce motor carriages, as such, on public ways.* * * they have an equal right with other vehicles in common use to occupy the streets and roads.* * * It is improper to say that the driver of the horse has rights in the roads superior to the driver of the automobile. Both have the right to use the easement. Indiana Springs Co. v. Brown, 165 Ind. 465, 468.

The right to make use of an automobile as a vehicle of travel long the highways of the state, is no longer an open question. The owners thereof have the same rights in the roads and streets as the drivers of horses or those riding a bicycle or traveling in some other vehicle. House v. Cramer, 112 N.W. 3; 134 Iowa 374; Farnsworth v. Tampa Electric Co. 57 So. 233, 237, 62 Fla. 166.

Automobiles have the right to use the highways of the State on an equal footing with other vehicles. Cumberland Telephone. & Telegraph Co. v Yeiser, 141 Ky. 15.

Each citizen has the absolute right to choose for himself the mode of conveyance he desires, whether it be by wagon or carriage, by horse, motor or electric car, or by bicycle, or astride of a horse, subject to the sole condition that he will observe all those requirements that are known as the law of the road. Swift v City of Topeka, 43 Kansas 671, 674.

A farmer has the same right to the use of the highways of the state, whether on foot or in a motor vehicle, as any other citizen. Draffin v. Massey, 92 S.E.2d 38, 42.

There can be no question of the right of automobile owners to occupy and use the public streets of cities, or highways in the rural districts. Liebrecht v. Crandall, 126 N.W. 69, 110 Minn. 454, 456.

The automobile may be used with safety to others users of the highway, and in its proper use upon the highways there is an equal right with the users of other vehicles properly upon the highways. The law recognizes such right of use upon general principles. Brinkman v Pacholike, 84 N.E. 762, 764, 41 Ind. App. 662, 666.

Automotive vehicles are lawful means of conveyance and have equal rights upon the streets with horses and carriages. Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 205; See also: Christy v. Elliot, 216 Ill. 31; Ward v. Meredith, 202 Ill. 66; Shinkle v. McCullough, 116 Ky. 960; Butler v. Cabe, 116 Ark. 26, 28-29.

Though, as we have said, automobiles are lawful vehicles and have equal rights on the highways with horses and carriages. Daily v. Maxwell, 133 S.W. 351, 354. Matson v. Dawson, 178 N.W. 2d 588, 591.

A traveler has an equal right to employ an automobile as a means of transportation and to occupy the public highways with other vehicles in common use. Campbell v. Walker, 78 Atl. 601, 603, 2 Boyce (Del.) 41.

There is no distinction made by these authorities (and many others) in the mode of travel a citizen chooses to use on a public way. A citizen has the same inalienable right to travel on a public road by use of an automobile as another citizen does traveling on foot or bicycle thereon:

A highway is a public way open and free to any one who has occasion to pass along it on foot or with any kind of vehicle. Schlesinger v. City of Atlanta, 129 S.E. 861, 867, 161 Ga. 148, 159; Holland v. Shackelford, 137 S.E. 2d 298, 304, 220 Ga. 104; Stavola v. Palmer, 73 A.2d 831, 838, 136 Conn. 670

Persons may lawfully ride in automobiles, as they may lawfully ride on bicycles. Doherty v. Ayer, 83 N.E. 677, 197 Mass. 241, 246; Molway v. City of Chicago, 88 N.E. 485, 486, 239 Ill. 486; Smiley v. East St. Louis Ry. Co., 100 N.E. 157, 158.

The owner of an automobile has the same right as the owner of other vehicles to use the highway,* * * A traveler on foot has the same right to the use of the public highways as an automobile or any other vehicle. Simeone v. Lindsay, 65 Atl. 778, 779; Hannigan v. Wright, 63 Atl. 234, 236.

A traveler on foot has the same right to use of the public highway as an automobile or any other vehicle. Cecchi v. Lindsay, 75 Atl. 376, 377, 1 Boyce (Del.) 185.

To further qualify the right to travel on the public roads by way of an automobile, several courts have made the obvious connection between its use and that of a constitutional liberty or as an individual right. This could only be the natural conclusion: If traveling per se is an inalienable and constitutional right, and if the automobiles has “equal rights” with the older forms of travel such as on foot or horseback, the logical deduction here is that traveling by way of an automobile on a public way is a constitutional, inalienable, and fundamental right:

The use of the automobile as a necessary adjunct to the earning of a livelihood in modern life requires us in the interest of realism to conclude that the right to use an automobile on the public highways partakes of the nature of a liberty within the meaning of the constitutional guarantees of which the citizen not be deprived without due process of law. Berberian v. Lussier, 139 A.2d 869, 872; 87 R.I. 226, 231 (1958). See also: Schecter v. Killingsworth, 380 P.2d 136, 140; 93 Ariz. 273 (1963).

The right to operate a motor vehicle [an automobile] upon the public streets and highways is not a

mere privilege. It is a right of liberty, the enjoyment of which is protected by the guarantees of the federal and state constitutions. Adams v. City of Pocatello, 416 P.2d 46, 48; 91 Idaho 99 (1966).

The right of a citizen to travel upon the public highways* * *includes the right in so doing to use the ordinary and usual conveyances of the day; and under the existing modes of travel includes the right to drive a horse-drawn carriage or wagon thereon, or to operate an automobile thereon, for the usual and ordinary purposes of life and business.* * *The rights aforesaid, being fundamental, are constitutional rights. Teche Lines v. Danforth, 12 So.2d 784, 787 (Miss.-1943). See also Thompson v. Smith, supra.

Thus, there can be no question that the defendant has an inherent, constitutional, and inalienable right to travel in his automobile on the public roads and streets, whether in Connecticut or anywhere else in the several states in Union. Will This court/tribunal admit that the defendant has a constitutional right to travel in his automobile or state that the defendant has not a right to use the streets and highways for travel without a driver's license (not for gain)? Will it become obvious that this lower court/tribunal avoided the facts and preferred not to recognize the true nature of the defendant's vested and constitutional rights in this case?

The liberty to travel in this land is interwoven into the fabric of the Organic Law of the United States of America and Connecticut. It is one of our most sacred and fundamental rights. It thus is one that can never be attacked, violated, suppressed, or destroyed by any level or branch of government. This would be in total defiance and contradiction to the very purpose our form of government was established, that being to secure such inherent and natural rights:

We hold these truths to be self-evident, that all men are created equal; that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness-That to secure these rights, Governments are instituted among Men, deriving their just powers from the consent of the governed... The Declaration of Independence-1776.

It is apparent the lower court has grossly underestimated the broad spectrum of rights that are encompassed in the terms "inalienable rights" or Constitutional Rights," along with their meaning and origin. These rights, being a gift of God, were secured by the Constitution of Connecticut, and cannot be dissolved away by legislative acts. Every inherent and inalienable right at common law, and which is in existence to date, when our constitution was adopted:

The office and purpose of the constitution is to shape and fix the limits of government activity. It thus proclaims, safeguards and preserves in basic form the pre-existing laws, rights, mores, habits and modes of thought and life of the people as developed under the common law and as existing at the time of its adoption to the extent and as therein stated. Dean v. Paolicelli, 72 S.E. 2d 506, 510; 194 Va. 219 (1952).

Hence, it may be said with great propriety, that a constitution "measures the powers of the rules, but it does not measure the rights of the governed;" that is not the origin of rights, nor the fountain of law-but it is the "framework of the political government, and necessarily based upon the pre-existing condition of laws, rights, habits, modes of thought." Cooley Con. Lim., 37 Atchison & Nebraska R.R. Co. v. Baty, 6 Neb. 37, 41.

The rights of the individual are not derived from governmental agencies, either municipal, state, or federal, or even from the Constitution. They exist inherently in every man, by endowment of the Creator, and

are merely reaffirmed in the Constitution, and restricted only to the extent that they have been voluntarily surrendered by the citizenship to the agencies of government. The people's rights are not derived from the government, but the government's authority comes from the people. The Constitution but states again these rights already existing, and when legislative encroachment by the nation, state, or municipality invade these original and preserved rights, it is the duty of the courts to so declare, and to afford the necessary relief. City of Dallas et al. v. Mitchell, 245 S.W. 944, 945-46 (Tex-1922).

There is nothing primitive about a State Constitution. It is based upon the pre-existing laws, rights habits, and modes of thought of the people who ordained it, * * *and must be construed in the light of this fact. Commonwealth v City of Newport News, 164 S.E. 689, 696 (1932).

The purpose and intent of a written constitution is to preserve the ancient rights held at common law, and constitutional provisions are to be so interpreted (See, American Jurisprudence, 2nd Ed., Vol. 16, ' 321). It thus becomes plain that all rights that the people inherently possessed when Connecticut was a Colony, were secured by the Constitution of Pennsylvania when adopted. That the right to freely travel, by what ever means available, on public ways had existed at that time cannot be doubted. The people who adopted the Constitution certainly did not "surrender" their liberty to freely travel by becoming citizens and/or residents of Connecticut. In fact they made sure that the Constitution would "secure the same to ourselves and our posterity." This is the main reason why the Constitution was "ordained and established" (I bid).

This principle, along with the broad meaning of "liberty," were evidently not understood by the trial court. Defendant would have prohibiting the State from restricting his right to travel via licensing. Thus, the trial court believes that if a right is not exactly spelled out in the Constitution (such as the right to travel), then it constitutionally does not exist. It has been held by a sister State, Minnesota Supreme Court that citizens possess such rights whether they are enumerated in a constitution or not:

The rights, privileges, and immunities of citizens exist notwithstanding there is no specific enumeration thereof in state constitutions. These instruments measure the powers of rulers, but they do not measure the rights of the governed.* * *The constitution of Minnesota specifically recognizes the right to "life, liberty or property," but does not attempt to enumerate all "the rights or privileges secured to any citizen thereof" It, however, significantly provides: "The enumeration of rights in this constitution shall not be construed to deny or impair others retained by and inherent in the people." Thiede v. Town of Scandia Valley, 217 Minn. 218, 225; 14 N.W. 2d 400 (1944).

It should be quite obvious from the forgoing authorities that a citizen does have an inalienable and Constitutional right to travel on the public highways, which includes the use of an automobile as a means of conveyance. This means the State Legislature cannot impair or suspend this Constitutional right or prohibit the Defendant from exercising it.

We realize that the police is elastic to meet changing conditions and changing needs, yet it cannot be used to abrogate or limit personal liberty or property rights contrary to constitutional sanction. City of Cincinnati v. Correll, 49 N.E. 2d 412, 414; 141 Ohio St. 535.

By the expression "constitutional right," as just used, we mean a right guaranteed to the citizen by the

Constitution and so guaranteed as to prevent legislative interference with that right. Delaney v. Plunkett, 91 S.E. 561; 146 Ga. 547.

The right to travel on the land was an inherent right, which had existed before the adoption of Connecticut's Constitution. This right includes all modes of travel, whether by horse, wagon, or carriage, or by walking, and also includes automobiles (not for gain) since they have "equal rights" with other modes of travel. Thus, the defendant is here again claiming and asserting his inalienable and constitutional right to travel on the public roads of this land, whether on foot, or by bicycle, or automobile or other means of conveyance existing or yet to be discovered. This is a right under the Constitution of Connecticut, which this court is bound to uphold and protect.

Defendant is not required to have a driver license.

Hey, you don't require soldiers to have driver licenses? It's a denial of equal protection to license some but not others.

Defendant already possess an inherent and constitutional right to travel and that the statutes would be an invasion and trespass on his rights. This trespass would of course be unconstitutional. Thus, while the statute used against the defendant may be constitutionally applied to certain individuals under certain circumstances, they are invalid as they are applied to and enforced upon the defendant. So even though the statutes themselves may be valid when applied to certain persons, such as those involved in commerce, for profit, they cannot be lawfully applied to the defendant due to the legal facts surrounding this case(e.g. defendant's rights, status, etc.). This legal reasoning has been upheld in a sister State Supreme Court:

We have held in a number of cases that an ordinance may be reasonable and proper as applied to one set of facts and arbitrary and invalid when enforced under other circumstances. State v Perry, 204, 207 (1964).

This case involves the invasion and violation of constitutional rights. These rights are the supreme law of the State. The burden on the State is great.

There is no compelling state interest

We demand the same standard as for speech. Most folks would rather go a day without talking than lose their driving privileges for a day. It's that important.

Where fundamental personal liberties are involved, they may not be abridged by the States simply on a showing that a regulatory statute has some rational relationship to the effectuation of a proper state purpose. Where there is a significant encroachment upon personal liberty, the State may prevail only upon showing a subordinating interest which is compelling. City of Carmel-By-The-Sea v. Young, 466 P.2d 225, 232; 85 Cal. Rept. 1 (1970).

The constitutional rights of liberty and property may be limited only to the extent necessary to subserve the public interest. Cameron v. International Alliance, Etc., 176 Atl. 692, 700; 118 N.J. Eq. 11 (1935).

The Nature of a License:

A license is merely a permit or privilege to do what otherwise would be unlawful. Payne v. Massey, 196 S.W. 2d 493; 145 Tex. 237, 241.

The purpose of a license is to make lawful what would be unlawful without it. State v. Minneapolis-St. Paul Metro Airports Commission, 25 N.W. 2d 718, 725.

A license is a right granted by some competent authority to do an act which, without such license, would be illegal. Beard v. City of Atlanta, 86 S.E. 2d 672, 676; 91 Ga. App. 584.

A license confers the right to do that which without the license would be unlawful. Antlers Athletic Ass'n v. Hartung, 274 P. 831, 832; 85 Colo. 125

A license is a mere permit to do something that without it would be unlawful. Littleton v. Burgess, 82 P. 864, 866; 14 Wyo. 173.

Generally, a license is a permit to do what, without a license, would not be lawful. Bateman v City of Winter Park, 37 So. 2d 362, 363; 160 Fla. 906.

Definition: License: A permission, accorded by a competent authority, conferring the right to do some act which without such authorization would be illegal, or wold be a trespass or a tort. Black's Law Dicti0onary, 2d Ed. P. 723 (1910).

Where this court/tribunal may be correct in asserting that the defendant is required to have a "driver's License," it must be then, according to the above authorities, because it is "unlawful" for him to freely travel in his automobile on the public roads. However, the foregoing cases show that the automobile, as a means of conveyance, is just as lawful as traveling on foot, horse, or bicycle since their rights are mutual, equal, and coordinate-a right, which was secured by the Constitution of Connecticut. Thus, the use of an automobile is lawful because it involves the exercise of a Constitutional Right, and the legislature cannot make the exercise of such a right unlawful by requiring a license of citizens (Americans) before allowed to exercise that right. It has been well settled that it is lawful for a citizen to travel using an automobile as a means of conveyance.

Automobiles are lawful vehicles and have equal rights on the highway with horses and carriages, * * *. Daily v. Maxwell, 133 S.W. 351, 354; 152 Mo. App. 415.

Automobiles are a lawful means of conveyance, and have equal rights upon the public roads with horses and carriages * * *. Shinkle v. McCullough, 77 S.W. 196, 197; 116 Ky. 960; Christy v. Elliott, 74 N.E. 1037, 1041; 216 Ill. 31; Fletcher v. Dixon, 68 Atl. 875, 877 (Md.)

Under the principles and rules of the common law, automobiles should be recognized as lawful vehicles. Sapp v. Hunter, 115 S.W. 463, 466, 134 Mo. App. 685

The case history of the automobile shows that it has always been lawful to travel on the public roads and streets with an automobile. The obvious reason why it is lawful to travel on the public roads by whatever means of conveyance available is that the public roads belong to the people or the public generally and were established or dedicated for the purpose of common travel.

The streets of a city belong to the people of the state, and every citizen of the state has a right to the use thereof. Ex parte Daniels, 183 Cal. 636, 639.

It is well established law that the highways of the state are public property; and their primary and preferred use is for private purposes; * * *. Stephenson v. Binford, 287 U.S. 251, 264.

A highway belongs to the public, and is free and common as a way to every citizen on the land.

House-Wives League v. City of Indianapolis, 204 Ind. 685, 689.

It is settled that the streets of a city belong to the people of a state and the use thereof is an inalienable right of every citizen of the state. Whyte v. City of Sacramento, 65 Cal. App. 534, 547.

The public highways belong to the people for use in the ordinary way. Barney v. Board of Railroad Com'rs, 17 Pac. 2d 82, 85 (Mont.-1932)

The streets of the city belong to the public. For ordinary use and general transportation and traffic, they are free and common to all, and any control sought to be exercised over them must be such as will not defeat or seriously interfere with their enjoyment. Melconian v. Grand Rapids, 188 N.W. 521, 524.

The streets belong to the public, the city being its trustee,* * *. Green v. City of San Antonio, 178 S.W. 6, 9.

Some would say that the right to travel is limited to travel without a car. They are wrong.

To make travel by automobile unlawful (by requiring a license) would violate the concept that their use as a means of conveyance is to be equal with citizens using other modes of conveyance. Where a driver's license is valid against the defendant, there would now exist a "distinction" as to the degree of right to the use of the public roads for travel. Other modes of travel are not to have a superior right in the use of public ways over one using a specific mode of conveyance:

Persons making use of horses as a means of travel or traffic by the highways have no rights therein superior to those who make use of the ways in other modes,* * * Improved methods of locomotion are perfectly admissible if any shall be discovered, and they cannot be executed from the existing public roads* * * A highway is a public way for the use of the public in general, for passage and traffic, without distinction. Macomber v. Nichols, 34 Mich, 212, 216, 22 Am. Rep. 522.

But the streets of a city may be as freely used by those who ride in automobiles as by pedestrians or travelers. Corcoran v. City of New York, 188 N.Y. 131, 139.

There is no doubt that the owners of automobiles have the same rights in the streets and highways of the State that the drivers of horses have. Wright v Crane, 142 Mich. 508, 510.

Automobiles* * * are lawful vehicles and as such are entitled to the privilege of using the public highways. Their drivers have equal rights with the occupants of wagons, carriages, and other vehicles. Hall v. Compton, 130 Mo. App. 675, 680.

Where automobiles are a lawful means of travel, and where they have the same rights upon the road as more ancient means of travel, then how can it be it that one must have a license before being allowed to travel in an automobile? Could one be required to have a license to travel by wagon, by horseback, by foot, or by boat on a river? All of history declares that as new modes of travel, possessing the natural, fundamental right to be used for travel:

If there is any one fact established in the history of society and of the law itself, it is that the mode of exercising this easement [highways] is expansive, developing, and growing as civilizations. In the most primitive state of society the conception of a highway was merely a footpath; in a slightly more advanced state it included the idea of a way for pack animals-constituting, respectively, the "iter," the "actus," and the "via"of

the Romans. And thus the methods of using public highways expanded with the growth of civilization, until today our urban highways are devoted to a variety of uses not known in former times. Carter v Northwestern Telephone Exch. Co., 60 Minn. 539, 63 N.W. 111; Molway v. City of Chicago, 88 N.E. 485, 486, 239 Ill. 4.

It is now well settled by all the courts that automobiles are lawful modern modes of travel and convenience, and that they have the same right upon the public highways as any other means of conveyance.* * * In all human activities the law keeps up with the improvements and progress brought about by discovery and invention. Riley v. Fisher, 146 S.W. 581, 583 (Tex. Civ. App.).

The point made here is that all modes of travel have an equal right to freely use the public roads for common travel. In Thompson v. Dodge, 58 Minn. 555, the Minnesota Supreme Court had pointed out this principle by showing that "A person riding a bicycle upon the public highways has the same rights in so doing as persons using other vehicles thereon." It also pointed out that an older form of travel, "has no right superior" to the more modern forms of conveyance because "the rights of each are equal." Thus, the legislature cannot make it unlawful for a citizen to travel on the public highways when using an automobile (or a light weight pick-up vehicle use for personal conveyance, not for gain) by compelling one to take out a "driver's license," thereby stating it is unlawful to travel in that mode and putting a burden one not on other Americans.

To compel one who uses his automobile for his private business and pleasure only, to submit to an examination and to take out a license (if the examining board see fit to grant it) is imposing a burden upon one class of citizens in the use of the streets, not imposed upon the others. We must therefore hold this ordinance, so far as it obliges appellee to take out a license before he can use his own automobile in his own business or for his own pleasure, is beyond the power of the city counsel, and is therefore void. City of Chicago v. Banker, 112 Ill. App. 94, 99-100.

This same legal principle is applicable in this case. The Defendant can lawfully travel in his automobile due to his Constitutionally guaranteed right to do so. This right he has equally with all citizens/Americans using the public road for travel. These principles would be abrogated if he is compelled to take out a license.

A further study into the nature of a "license" will continue to show that the defendant is not required to have a license to travel in his automobiles, and thus does not come under the purview of Title14, where the defendant is required to have a driver's license in the Connecticut General Statutes. This is due to the fact that a license can only grant or confer a right or privilege, which does not legally exist without a license.

The object of a license is to confer a right or power which does not exist without it. Payne v. Massey, 196 S.W. 2d 493; 145 Tex. 237, 241.

To license means to confer on a person the right to do something which otherwise he would not have the right to do. City of Louisville v. Sebree, 214 S.W. 2d 248, 253; 308 Ky. 420.

The object of license is to confer right or power which does not exist without it and exercise of which without license would be illegal. Inter-City Coach Lines v. Harrison, 157 S.E. 673, 676; 172 Ga. 390.

According to these authorities, a "driver's license" apparently grants or confers some sort of right or privilege. A driver's license then can only be required of someone who does not have an inherent right to use the public roads. The defendant, as previously shown, already possesses an inalienable and constitutional

right to use the public roads in his travels, and therefore does not need to secure the right to do so by way of a license.

A license is a privilege granted by "the State,"* * *To constitute a privilege, the grant must confer authority to do something which, without the grant, would be illegal; for if what is to be done under the license is open to every one without it, the grant would be merely idle and nugatory, conferring no privilege whatever. A license, therefore implying a privilege, cannot possibly exist with reference to something which is a right, free and open to all, as is the right of the citizen to ride and drive over the streets of the city without charge and without toll. City of Chicago v. Collins et al, 51 N.E. 907, 910.

The driver's license, as it applies to the defendant, is "merely idle and nugatory" because the right it confers, or pretends to confer, are already "free and open" to him as an inherent right by the Connecticut Constitution. The driver's license cannot possibly grant the Connecticut a right to travel on the public roads, when he already possesses an inherent right to do so. It has been said that "the individuals ordinary right to the free use of the streets" for travel "cannot be taken from him" See State v. McCarthy, 171 So. 314, 316 (Fla.-1936). Where a State can require an American/citizen to obtain a license before he is allowed to travel, the State has effectually taken his right to travel away from him.

The only persons that the courts have repeatedly recognized as having no inherent right to use an automobile on a public road are those who are engaged in commercial activity; such as common carriers, truck drivers, chauffeurs, taxi drivers, etc. See Title 18 United States Code §31. In other words, those who use the public roads for business or personal gain have no inherent right to use the roads as such. They therefore are subject to licensing because their use of the road is special and extraordinary and can be deemed unlawful. The courts have repeatedly shown the distinction between the rights of citizens using the roads for common travel from one using them for commercial purposes:

The right of a citizen to travel upon the highway and transport his property thereon, in the ordinary course of life and business, differs radically and obviously from that of one who makes the highway his place of business and uses it for private gain, in the running of a stage coach or omnibus. The former is the usual and ordinary right of a citizen, a common right, a right common to all, while the latter is special, unusual and extraordinary. As to the former, the extent of legislative power is that of regulation; but, as to the latter, its power is broader, the right may be wholly denied, or it may be permitted to some and denied to others, because of its extraordinary nature. This distinction, elementary and fundamental in character, is recognized by all he authorities. Ex parte M.T. Dickey, 76 W. Va. 576, 579; 85 S.E. 781 (1915); Cited by: Schultz v. City of Duluth, 163 Minn. 65, 69, 203 N.W. 449; Scott v. Hart, 128 Miss. 353; State v. Johnson, 75 Mont. 240; Cummings v. Jones, 79 Ore. 276, 280; Hadfield v. Lundin, 98 Wash. 657; et al.

In a case involving a person engaged in transporting property under contract for hire by truck on the highways, the Supreme Court of Montana revealed the nature of such activity in comparison to one using the roads for travel:

While a citizen has the right to travel upon the public highways and to transport his property thereon, that right does not extend to the use of the highways, either in whole or in part, as a place of business for

private gain. For the latter purposes no person has vested right in the use of the highways of the state, but is a privilege or license which the Legislature may grant or withhold in its discretion, or which it may grant upon such conditions as it may see fit to impose. Barney v. Board of Railroad Com'rs, 17 Pac. 2d 82, 85 (Mont.-1932).

It has been said, "a license to operate an automobile is not property, but a mere privilege." This is true, all licenses are a privilege. But nowhere does it say that travel in an automobile is a mere privilege. The Legislature cannot make travel upon the roads and highways conditional upon the obtaining of a license, because the act of ordinary travel is not a privilege but an ordinary right. The Legislature can, however, require a license for one using the roads for profit for such use is a privilege:

The use of the streets as a place of business or as a main instrumentality of business is accorded as a mere privilege and not as a matter of natural right. Reo Bus Line Co. v. Bus Line Co., 272 S.W. 18, 20, 209 Ky. 40.

The Appellant/Defendant has never used his automobile for private gain or commercial activity on the public roads, but rather was using his inherent right to travel thereon prior to his arrest. Even though this fact is true and correct, the Appellant/Defendant does not deal with any type of commerce with his automobile for gain. Cases such as: Chicago v. Collins, Thompson v. Smith, House v. Cramer, et al., are not related to interstate commerce or even interstate travel.

The Driver's License is of a commercial nature and character. Such licenses are and can only be used to grant permission to one using the roads in a commercial capacity, and have no relation to their use in the exercise of the fundamental right to travel:

The ordinary use of the streets by the citizens is an inherent right which cannot be taken from him by the city and may only be controlled by reasonable regulation, while the right to use the streets for conducting thereupon a private business of any character is not an inherent or vested right and can only be acquired by permission or license form the city. Davis v. City of Houston, 264 S.W. 625, 629 (Tex. Civ. App.); State v. Quigg, 114 So. 859, 862 (Fla.-1927). See Also: Lane v. Whitaker, 275 F. 476, 480.

The Appellant, prior to his arrest, was traveling in his Toyota, a 1989, on the public roads in Connecticut by common law right, and thus having equal rights with other travelers, such as pedestrians, bicyclists, horse and carriages, etc., all of which have an inalienable right of free passage on the public road. Therefore, the defendant needs no license to obtain a right (free passage on a public road) he already possesses. The State cannot compel the Appellant to acquire a license before he is allowed to exercise his constitutional right of liberty and to travel. This same principle holds true regarding the exercise of all constitutional rights there can be no license required before they are allowed to be exercised. For instance, in a case regarding the right of freedom of the press, the United States Supreme Court held that a law, which prohibits the distribution of printing materials except by license, is invalid. The Court stated, to wit:

We think that the ordinance is invalid on its face. Whatever the motive which induced its adoption, its character is such that it strikes at the very foundation of the freedom of the press by subjection it to license and censorship. The struggle for the freedom of the press was primarily directed against the power of the

licensor. It was against that power that John Milton directed his assault by his "Appeal for the Liberty of Unlicenced Printers." Lovell v. Griffin, 303 U.S. 444, 451 (1937); Thornhill v. Alabama, 310 U.S. 88, 97 (1939).

Regarding the constitutional right to freedom of speech, Justice Douglas had stated in a U.S. Supreme Court decision that: "No one may be required to obtain a license in order to speak." Thomas v. Collins, 323 U.S. 516, 543 (1944). Thus, "The State" can no more license the Appellant's right to travel in his automobile than it could license his right to print or speak, for they are all inalienable rights.

The reason a right cannot be licensed is that the license (a statutory right) would require the Appellant to surrender his inalienable right in lieu thereof, just to obtain permission (i.e. license) to do what he already has a right to do. The State has no power to compel a citizen to surrender an inalienable right:

Inalienable, means incapable of being surrendered or transferred, at least without one's consent. Morrison v. State, Mo. App. 252 S.W. 2d 97, 101.

The right of liberty and the right to move from place to place are natural and inalienable rights, endowed to us by our Creator, and secured by the Constitution of Connecticut. They thus are rights that the Defendant possesses and he refuses to surrender or transfer such rights to the State by way of licensing.

Licensing distinguished from mere Regulation

In Ex parte Dickey, supra, et al., the court pointed out the distinction in legislative power over a citizen using the public roads for ordinary travel, over one using them in a commercial capacity. The courts holding is: "As to the former (the citizen using the road for common travel) the extent of legislative power is that of regulation; but, as to the latter, its power is broader, the right may be wholly denied, or it may be permitted to some and denied to others." We see that the legislature has the power to preclude or prevent those engaged in commercial activity from being on the public roads, but no such power is extended over the citizenry using it for ordinary travel. **In this case the legislative power is limited to mere regulation.**

Where a citizen is required to have a license before he can travel anywhere in the several States, the licensor has absolute power and control over his/her liberty to travel, to earn a living, transport his property, etc. The licensor (The Department of Motor Vehicles) would then have complete authority not only to grant, but also to prevent, revoke, or prohibit an American and/or citizen's liberty and right to travel

A license means leave to do a thing which the licensor could prevent. Blatz Brewing Co. v. Collins, 160 P.2d 37, 39, 69 C.A. 2d 639; Western Electric Co. v. Pacent Reproducer Corp., 43 F.2d 116, 118.

The authority to license implies the power to prohibit, such being the meaning of the term. The City of Burlington v. Bumgardner, 42 Iowa 673, 674.

A license, pure and simple, is a mere personal privilege, and it is revocable at law, at the pleasure of the licensor, even when money has been paid for it. River Development Corp. v. Liberty Corp., 133 A.2d 373, 385; 45 N.J. Super. 445.

The power of the legislature over the common travel of citizens extends only to such reasonable regulations that would promote safe travel for all. It never included the power to prohibit it by way of licensing. Such authority to prohibit a right would not conform to or fulfill the purpose and meaning of "regulate."

Regulate implies arranging in proper order and controlling a thing or condition which already exists

and is not synonymous with prohibit. Yaworski v. Town of Canterbury, 154 A.2d 758, 760; 21 Conn. Sup. 347.

The power to regulate does not fairly mean the power to prohibit. Andrews v. State, 50 Tenn. (3 Heisk.) 165, 180.

Regulate, as ordinarily used, means to subject to rules or restrictions, to adjust by rule or method, to govern, and is not synonymous with prohibit. Simpkins v. State, P 168, 170; 35 Okla. Cr. 14

The power to license is the power to prohibit and does not conform to proper regulation of a Constitutional right. Licensing is an "extraordinary" measure, which cannot be used to regulate an "ordinary right," like the right of travel, since it prohibits that right.

Even the legislature has no power to deny to a citizen the right to travel upon the highway and transport his property in the ordinary course of his business or pleasure, though this right may be regulated in accordance with the public interest and convenience. Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 206.

Also, once a person has accepted a license, his rights become limited by the terms of the license or rules of the licensor. Any Constitutional rights that would normally stand above the rules under a license, now become limited by and subordinate to the terms and rules under the license statute or by the licensor:

The rights o a licensee can rise no higher than the terms of the statute or ordinance by which he became the holder. Steves v. Robie, 139 Me. 359, 363.

A license, such as a drivers license, allows the licensor to do things to or require things of the licensee that would otherwise be outside the power of the State, or a trespass upon his constitutional rights, such as blood and breath tests, mandatory seat belt use, etc., not to mention excluding him and his automobile from he public roads. This type of prohibitive power to exclude one from traveling on the public road by way of licensing, could only apply to those who had no inherent right to use the streets in the first place, such as a common carrier, as explained in Ex parte Dickey.

In Easton v Dowdy, 219 Ga. 555, the holding in the Georgia Supreme Court with said cite, that where someone wishes to use the public roads for business purposes, such as a "taxicab business," the licensor can "grant or refuse a license in their discretion." Also, the licensor can "prescribe such terms and conditions as it may see fit, and individuals desiring to avail themselves of such permission must comply with such terms and conditions, whether they are reasonable or unreasonable." The same situation would hold true with a driver"s license. They thus are an unreasonable mode of regulating rights.

The police power of the States extends only to such measures as are reasonable, and the general rule is that all police regulations must be reasonable under all circumstances. Ex parte A.M. Smythe, 116 Tex. Crim. 146, 147; 28 S.W. 2d 161.

To transcend beyond the bounds of reasonable regulations of a constitutional right would constitute an invasion of that right. The reasonable regulation of a constitutional right, such as the right to freely travel on a public way, never included the power to prohibit it by licensing a person. Since "regulation is inconsistent with prohibition or exclusion" (Chicago Coach Co. v. City of Chicago, 337 Ill. 200, 206), licensing is inconsistent with proper regulation of a right. This lower court/tribunal apparently believes this Appellant is

required to have a license, making the assumption that since the legislature has the authority to establish reasonable regulations for common travel, it also has the power to license it. This, of course, is a false assumption. The following holdings will correct this incorrect assumption at the heartland.

Does the power to regulate confer the right to license? We think not...We discover that to license and to regulate do not require the exercise of the same power, and the same objects are not attained by the acts authorized, and this being settled leads to the conclusion that the first cannot be exercised under authority to do the last. See The City of Burlington v. Bumgardner, 42 Iowa 673, 674.

The power to regulate does not necessarily include the power to license. In passing on the question of whether in a particular case the power to regulate includes the power to license, it is well to bear in mind the distinction between regulation and license. Regulations apply equally to all. A license, however, gives to the licensee a special privilege not accorded to others and which he himself otherwise would not enjoy. Once a power to license exists, certain acts becomes illegal for all who have not been licensed. Village of Brooklyn Center v. Rippen, 255 Minn. 334, 336-37; 96 N.W. 2d 585

The "act" of traveling in the several states or Connecticut has never been illegal. Nor is the nature of the act such that it can be illegal or regarded as a "special privilege." it would be foolish and unconstitutional to say it is. Traveling in this country, regardless of what mode of conveyance used, has never been regarded as such because the power to license a citizen for exercising this right has never existed. This is because reasonable regulations of an inalienable right do not include compelling a citizen to waive his constitutional rights by submitting him to licensing, the very nature of which subjects the licensee to rules that can be unreasonable or a further trespass on his rights. In short, the exercise of an inalienable right cannot be made illegal by subjecting a person to a license. Legislative statute or fiat cannot change the nature of a constitutional right. The right or liberty to freely travel, which had existed when the Constitution of Connecticut was adopted, exists today, as the right is unchangeable:

Two basic purpose of a written constitution are:

1: Securing to the people certain unchangeable rights and remedies;

2: Curtailment of unrestricted governmental activity within certain defined fields.

Authority: ***Du Pont v. Du Pont***, 85 A. 2d 724, 728 (Del.B1951)

It becomes apparent that this court/tribunal is trying to change the purpose and intent of the Constitution of Connecticut. It is also apparent that this legislative tribunal (a de facto court) is trying to apply new and different legal principal to the exercise of constitutional rights that were originally beyond the power of "The State" to apply. The fact that an automobile is now being used to exercise this "unchangeable" inherent right to freely travel makes no difference in this case because, as previously shown, automobiles and pick-up vehicles have the "same right" (House v Cramer, supra) as those modes of travel used since the adoption of Connecticut's Constitution. Thus, the same legal principles apply only to the automobile as with other modes of travel:

That the use of automobiles on the highways for business or recreation is unlawful, is no longer open to question. Such use involves only the application of a new appliance and mode of travel, rather than any new

legal principle. Deputy v. Kimmell, 73 W. Va. 595, 597 (1914).

The California Constitution contains no grant of power to take away our right to use the road - and such a grant would violate the privileges and immunities clause.

Neither the state nor the Motor Vehicle Department can license the Defendant for traveling in an automobile any more than it could have licensed one traveling on foot or horse or carriage when the California Constitution was adopted.

It is obvious the intent of the Constitution was to preserve the inherent right and liberty of people to freely travel, and no absolute power to license people before they were allowed to exercise this basic right was ever imagined or considered. This intent of the Constitution exists to day and is applicable to the Appellant traveling in his automobile/pick-up vehicle.

The means which a constitutional provision had when adopted, it has today; its intent does not change with time nor with conditions; while it operates upon new subjects and change conditions, it operates with the same meaning and intent which it had when formulated and adopted. Cooley's Constitutional Limitations (8th Ed.) Vol. 1, p. 123. As judge Cooley stated, to wit: AA constitution is not to be made to mean one thing at one time, and another at some subsequent time when the circumstances may have so changed as perhaps to make a different rule in the case seems desirable. Travelers' Ins. C. v. Marshall, 76 S.W. (2d) 1007, 1011; 124 Texas 45.

This legislative court is bound to uphold the Constitution of Connecticut as it was written, which it reluctantly failed to do in its biased and distorted decision, one which was totally unsupported by fact or law. The Appellant can use an automobile/pick-up vehicle in his travel with the same freedom and legal right as that which was intended under the Constitution of Connecticut for a man to freely walk or ride his horse on the public road. The conditions may change but the meaning of the law does not. The trial court had all ignored and evaded the manner of constitutional law and rights in its decision. The court was apparently aware that if it had applied and upheld the rights and legal principles that were secured and fixed by Constitution, that it could never apply any driver's licensing statutes to the Defendant for traveling in his automobile to date. Will this legislative court having heard the above avoid the arguments in this matter by twisting them out of context, and then stating that the Defendants arguments are not supported by case law or statute? While this has been shown to be totally false, it is strange that this legislative court has not stated that Constitutional law did not support the arguments presented! If such issues were of paramount importance why would this legislative court avoid this matter? This legislative court may find it necessary to hold the police power of this State as an absolute power over the Appellant's Constitutional, inherent, and unalienable rights. This false position may have been necessary for them to take as being the only way such licensing legislation could be upheld and applied to the Defendant, not to mention giving the police a bear hug. The Appellant's liberty and inherent right to freely travel are paramount over the police powers and cannot be superseded by licensing.

The powers of government, under our system, are nowhere absolute. They are but grants of authority

from the people, and are limited to their true purpose. The fundamental rights of the people are inherent and have not been yielded to governmental control. They are not the subjects of government authority. They are the subjects of individual authority. Constitutional powers can never transcend constitutional rights. The police power is subject to the limitations imposed by the Constitution upon every power of government; and it will not be suffered to invade or impair the fundamental liberties of the citizen, those natural rights which are the chief concern of the Constitution and for whose protection it was ordained by the people.* * * It [a constitutional right], is not a right, therefore, over which the police power is paramount. Like every other fundamental liberty, it is a right to which the police power is subordinate. Spann v. City of Dallas, 235 S.W. 513, 515; 111 Tex. 350 (1921). Goldman v. Crowther, 147 Md. 282, 306-07; 128 Atl. 50, 59 (1925).

Since the police power is "subordinate" to constitutional rights, the police power cannot possibly license (i.e. prohibit, make unlawful, or turn in to a privilege) the exercise of such a right, and thereby "transcend" such a right and put itself in a superior position. These rights are the most important part of the law of the land and such rights are beyond the reach of legislative interference. Thus the police power cannot constitutionally license these rights because to require a license by statute for the right to travel is to infer that the citizen has no inherent, vested or constitutional right to travel. This is the argument of the defendant from the very beginning of this case, and one that this legislative court has continually evaded and avoided. The driver's license is an unwarranted interference with the Appellant's fundamental right of travel in his automobile.

The right of a citizen to travel upon the public highways* * *includes the right to drive a horse-drawn carriage or wagon thereon, or to operate an automobile thereon,* * *The rights aforesaid, being fundamental, are constitutional rights, and while the exercise thereof may be reasonably regulated by legislative act in pursuant of the police power of the State, and although those powers are broad, they do not rise above those privileges which are embedded in the constitutional structure. The police power cannot justify the enactment of any law which amounts to an arbitrary and unwarranted interference with, or unreasonable restriction on, those rights of the citizen which are fundamental. Teche Lines v. Danforth, 12 So. 2d 784, 787-88 (1943).

It is an undisputed fact that the courts/tribunals having created smoke screens by avoiding the above said subject matters, having nothing to do with the subject matters at hand, and has also tried to justify licensing by inferring it is imposed under the police power in the interest of public safety. Working with such unclean hands by administrators is unacceptable in what was designed by the founding fathers as "Honorable," now brings a whole new meaning into Superior court/tribunal. This lower court/tribunal nonetheless yet to show how much licensing promotes public safety and welfare, and thus could not even justify or verify. This said court tribunal using the police power as a cover for its inept statements. The fact is that the police power cannot invade the area of inherent rights.

Where the ostensible object of an enactment is to secure the public comfort, welfare, or safety, it must appear to be adopted to that end. It cannot invade the rights of persons and property under the guise of a mere police regulation. City of Mt. Vernon v. Julian, 369 Ill. 447, 451 (1938).

But the police power, even as thus defined, vague and vast as it is, has its limitations, and it cannot

justify and act which violates the prohibitions, expressed or implied, of the state or federal constitutions. If this were not so, and if the police power were superior to the constitution and if it extended to all objects which could be embraced within the meaning of the words "general welfare," as defined by the lexicographers, the constitutions would be so much waste paper, because no right of the individual would be beyond its reach, and every property right and personal privilege and immunity of the citizen could be invaded at the will of the state, whenever in its judgment the convenience, prosperity, or mental or physical comfort of the public required it. Tighe v. Osborne, 149 Md. 349, 357; 181 A. 801, 803.

The argument that the driver's license must be forced on each and every citizen for the sake of public safety, and thereby assuring only competent drivers are on the road, make a waste of paper of the Constitution by ignoring the fundamental rights involved. The administrators of the lower court/tribunal on public safety and welfare are actually in itself a false assumption. The first licensing law aimed at the private citizen in 1933, was required for a "person" to obtain a "driver's license under this act, was to sign an application stating "that he is competent to operate a motor vehicle upon the public highways," and pay 25 cents. Thus, the most illiterate and incompetent person could obtain a license. Anyone who had a visual, mental, or physical impairment could obtain a license, and anyone who was unfamiliar with the rules of the road or had never used an automobile could obtain a license. And indeed this did happen.

The driver's license is a typical example of an abridgement of freedom by gradual and stealthy encroachments. The IRS is another example. When the Connecticut license law was passed on April 21, 1933 (just a short time after FDR declared the United States bankrupt on March 9, 1933), it did not go into effect for almost a year latter on March 1, 1934. So even though the law was placed on the books, it lay dormant for a year during which time nothing changed in the lives of citizens in traveling upon the roads thereby suppressing any immediate objections to it. And when it was enacted, history shows it was loosely enforced. The continued enforcement of the license is seen today to include everything from roadblocks to requiring mandatory seatbelts and insurance. Furthermore, the gradual evolution and adoption of "examinations" fourteen years after the license law was enacted was necessary because the people had to first be lulled into the idea that the State could license their right to travel. Where these "examinations" were required at the same time the 'driver's license" was required, along with its heavy and strict enforcement, mandatory seatbelt, mandatory insurance, etc., the people would then have seen it as an obvious and sudden usurpation of an inherent right and rebelled against it. Throughout our history we have been forewarned of such gradual encroachments upon our rights:

> I believe there are more instances of the abridgment of freedom of the people by gradual and silent encroachment of those in power than by violent and sudden usurpations.----James Madison.

Illegitimate and constitutional practices get their first footing in that way, namely, by silent approaches and slight deviations from legal modes of procedure. This can only be obviated by adhering to the rule that constitutional provisions for the security of persons and property should be liberally construed.* * *It is the duty of the courts to be watchful for the constitutional rights of the citizen, and against any stealthy encroachments

thereon. ***Boyd v. United States*** (1886), 116 U.S. 616, 635; Ex parte Rhodes, 202 Ala. 68, 71.

The State has gradually convinced the citizenry that the exercise of their inalienable and constitutional right to liberty and to freely travel is an unlawful act, by gradually convincing them that a license is first required before the liberty and right to travel can be exercised. It thus would seem the primary purpose to which the driver's license serves is that of legal control of a right, identification, and revenue, and not one of public safety.

Thus, the Defendant does and cannot constitutionally come under the purview of the "driver's licensing" statute.

Abrogation of the Right of Property by stealthy encroachment

The nature of a driver's license is such that it also infringes upon and prohibits the use of one's property (i.e. automobile/pick-up vehicle). Appellant has never waived his rights, knowingly, intelligently, or voluntarily to the use of his automobile via application of the driver's license. The State of Connecticut driver's license statute disallows a citizen to use his property (an automobile) and where he does use it, that property is taken away (towed and/or compounded). Such statutes cannot be held as being valid against an American and/or citizen.

Property in a thing consists not merely in its ownership and possession, but in the unrestricted right of use, enjoyment and disposal. Anything which destroys any of these elements of property, to that extent destroys the property itself. The substantial value of property lies in its use. If the right of use be denied, the value of the property is annihilated and ownership is rendered a barren right. Therefore a law which forbids the use of a certain kind of property, strips it of an essential attribute and in actual result proscribes its ownership.* * * Since the right of the citizen to use his property as he choose so long as he harms nobody, is an inherent and constitutional right, the police power cannot be invoked for the abridgment of a particular use of private property, unless such use reasonably endangers or threatens the public health, the public safety, the public comfort or welfare. Spann v. City of Dallas, 235 S. W. 513, 514-15.

So far as such use of one's property may be had without injury to others it is a lawful use which cannot be absolutely prohibited by the legislative department under the guise of the exercise. In re Kelso, 147 Cal. 609, 612 (1905).

To date, this legislative court/tribunal acting with an administrator designated from de facto Legislation (rule makers for the corporate State), under bankruptcy supplies no evidence that the Defendant has caused any injury or property damage in the use of his property traveling upon the public roads. The "driver's license" can and would allow the Defendant's property to be abridged by forbidding him to use that property until he becomes licensed.

An automobile is not dangerous per se. Thus, rule and legal principles (such as a license prohibiting its use), which are applicable to those things required "extraordinary care in the use and control," are not applicable to automobiles/pick-up vehicles. This court/tribunal has given no justification for prohibiting the Defendant the use of his property.

Conclusions applicable to Defendant's use of the roads in common tenancy

The ill-trained Gestapo police here are mistaken about the law. They and the courts here are both short-sighted with regard to the right to use the roads.

1. **Right to Travel.** You all swore to uphold the constitution.

2. **Common Tenancy of the public road.** No license is required for a tenant in common to use the common property.

3. **Legislature has no right to dissolve our tenancy.** Traveling on the roads in California (except the toll roads) has always been free to all. The legislature has no authority to take away that right.

C. The driver's license creates a distinction in rights of citizens using the public roads for travel. All citizens are to have equal rights in the use of the roads for ordinary travel and none are to have superior rights (i.e. bicyclists) over another (i.e. automobilists/pick-up vehicles). The driver's license imposes a burden and restriction on Americans and/or citizens traveling by automobiles/pick-up vehicles that does not exist on other travelers. D. The driver's license confers a statutory right, that being the right to travel on the public roads with an automobile/pick-up vehicle, which the Appellant already possess an inalienable, constitutional and vested right. Thus the driver's license is nugatory and meaningless against the Appellant.

The driver's license gives to the licensor the power to prohibit and preclude the Defendant's right to use the public roads for travel. This is an extraordinary measure that could only be used on this engaged in commercial travel.

The driver's license makes the Defendant's constitutional liberty and right of locomotion subordinate to the police powers. However, the police power can never transcend constitutional rights but rather is always subordinate to them since these rights are part of the supreme law of this State.

Other constitutional rights of the Defendant are subject to be limited or forced to be waived by any terms or rules under such licensing. This would constitute an "unreasonable" exercise of police powers.

The driver's license, where applied to the Defendant, would require him to surrender and transfer his inalienable right of liberty and locomotion to this State in lieu of the license (i.e. statutory privilege) which is constitutionally impossible.

A word about administrative law and statutes. In California, the meaning of statutes has been diluted. Subject matter which might better be relegated to regulations and been elevated to the status of statute. "While in practical effect regulations may be called "little laws" they are at most but off-spring of statutes." See United States v. Jones, 345 U.S. 377, 73 S.Ct. 759, 97 L ED.. 1108. The result is that neither the statute nor the regulations are complete without the other, and only to together do they have any force. In effect, therefore, the construction of one necessarily involves the construction of the other. See ***U.S. v. Mersky***, 361 U.S. 431, 80 S.Ct. 459

These powers are utilized in the Superior courts throughout California and nearly all the states, not just as a resource for income (taking of property from the people traveling in Connecticut, but also in the same way the Jews in Nazi Germany were identified with a tattoo on the arm for control.

The claim and exercise of a Constitutional right cannot be converted into a crime.@ Miller v U.S., 230 F.2d 488, 489.

_____

Defendant pro se

Proof of Service

I, (print name)_____, declare the following under penalty of perjury. I served this demurrer on the district attorney by hand delivering it to the receptionist at his office on the 3rd floor of the court house at 800 S. Victoria, Ventura CA 93003 on (date)_____.

Signed _____ Date _____